

Person to Contact: [REDACTED]  
Telephone Number: [REDACTED]  
Refer Reply to: Internal Revenue  
Service  
[REDACTED]

Date: NOV 06 1987

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Internal Revenue Code.

You were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purposes as stated in your organizing document are as follows: "To organize and operate a civic organization which shall not be organized or operated for profit. The corporation does not contemplate pecuniary gain or profit to the members thereof and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence lots and common areas within the planned residential development, as now existing or as may be changed in the future, known as [REDACTED], and to promote health, safety, and welfare of the residents within such development and any additions thereto as may hereafter be brought within the jurisdiction of this corporation...."

The activities carried on by your organization are as follows: You maintain the common areas in the subdivision as well as the tennis courts, swimming pools and walking paths. You are also leasing property from [REDACTED] which includes fountains, ponds, pumps, and hotel units. The amount of the rent is [REDACTED] per month for each residential unit located in the subdivision. One single family dwelling, each individual apartment, each townhouse, and each other residence constitutes a residential unit for the purpose of the lease. You provide fire,

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Surname							
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extended coverage, and public liability insurance on all the property you either own or lease.

Your organization is a membership organization with two classes of voting members. Class A members are the owners of a residential unit including but not limited to townhouse lots. Each class A member is entitled to one vote for each residential unit or lot owned. The class B member is [REDACTED] and, as such, is entitled three votes for each residential unit or lot owned. [REDACTED] will continue to be a class B member until: 1) the total number of class A membership votes equals the class B votes 2) on [REDACTED], or 3) whenever [REDACTED] wishes to convert its membership to a class A membership, whichever is earlier.

The President of your organization, [REDACTED], is also the President of [REDACTED].

Section 501(c)(4) of the code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-280, 1969-1, C.B.152 holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under Section 501(c)(4) of the code.

The organization performed services that members would otherwise have to provide for themselves, therefore, the organization is operated primarily for the private benefit of members. Any benefits to the community were not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community.

Revenue Ruling 72-102, 1972 C.B. 142, holds that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for the use of the residents is exempt under Section 501(c)(4).

Where a subdivision or housing development constitutes a community, the administering and enforcing of covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments serves the common good and the general welfare of such a community.

Revenue Ruling 74-99, 1974-1 C.B. 131, which modified Revenue Ruling 72-102, holds that a homeowners association, to qualify for exemption under Section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof, (2) it must not conduct activities directed to the exterior maintenance of private residences and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Rev. Rul. 74-99 further states that an organization that is formed by a commercial real estate developer, has membership which is opened only to the developer and the purchasers of lots, and whose stated purpose is to administer and enforce covenants for preserving the architectural and appearance of the given real estate development, is primarily formed and operated for the individual business or personal benefit of its members and, as such, does not qualify for exemption under Section 501(c)(4).

Your organization was formed by the developer, [REDACTED] subject to a Declaration of Covenants and Restrictions. [REDACTED] maintains control of your organization by receiving three votes to one for every lot owned, and by the fact that the President of the [REDACTED] is also the president of your organization. You have also entered into a lease agreement in which you are operating and maintaining facilities, including hotel units, which are owned by [REDACTED] a member of your organization. You are therefore operating primarily for the private business interest of [REDACTED]

Based on the foregoing, we have concluded that your organization is operated primarily for the private benefit of your members and any benefits to the community are not sufficient to meet the requirement of the regulation that an organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, we hold that you are not exempt from Federal Income Tax as a social welfare organization under Section 501(c)(4) of the Code and are required to file Federal Income Tax Returns annually.

A homeowners association that is not exempt under Section 501(c)(4) and that is either a condominium management association or a residential real estate management association generally may elect, under the provisions of Section 528 to receive certain tax benefits that, in effect, permit the exclusion of its exempt function income from its gross income. The election is made each year by filing Form 1120-U. For more information, see Publication 588 Tax Information for Homeowners Associations.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 992, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

Please keep this determination letter in your permanent records.